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09/546,851	04/10/2000	David Domnitz	P00043501	3446

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EXAMINER

GANTT, ALAN T

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 08/14/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/546,851

Applicant(s)

DOMNITZ, DAVID

Examiner

Alan T. Gantt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 4/10/00.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 and 40-98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20, 28-38, 40, 45-74, 76-80 and 82-94 is/are rejected.
- 7) ☒ Claim(s) 21-27, 41-44, 75, 81 and 95-98 is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

The application as submitted has skipped claim number 39. Due to the number of claims and their dependencies, the examination was performed with the numbering as is. Thus, although the last claim number is 98. The actual total number of claims examined in this First Office Action is 97.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3, 7-9, 12, 14, 15, 17, 18-20, 28, 29, 32, 34, 35, 36, 38, 40, 48-53, 54-68, 73, 74, 76, 77, 79, 80, 82-91, and 92-94 are rejected under 35 U.S.C. 102(e) as being anticipated by Treyz et al.**

Regarding claim 1, Treyz discloses a system based on handheld computing devices that assist users in shopping and performing wireless transactions. Treyz meets the following limitations:

- A time/location based information delivery system
- A computer system comprising:

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- means to communicate with a computer network (Figure 14 and col. 21, line 25 to col. 22, line 15, Figure 15, col. 22, line 16 to col. 23, line 7);
- storage means for storing information related to individuals (col. 14, lines 12-40);
- means to communicate with information providers ( col. 2, lines 45-65);
- input means to accept time/location information related to an individual, the times/location information having unique identifying information or an individual and information defining the location of the individual at a particular time (col. 25, lines 22-35 and lines 49-60);
- means to select user specific information from the information providers based on the location of the individual at a particular time (col. 46, lines 31-33; col. 47 line 54 to col. 48, line 9; col. 49, lines 50-58; col. 55, lines 31-40); and
- means to communicate the user specific information to information output means (Figs. 1, 2, 4, 13, 14, 36, 49, 71, 79, 93, 96, col. 15, lines 11-34, col. 20, line 57 to col. 23, line 7);

An identification device comprising:

- storage for storing unique identifying information (col. 29, lines 1-10 and 39-56; col. 27, lines 45-54; and col. 30, lines 3-21);
- means to transfer the unique identifying information to an information retrieval device (col. 14, lines 24-40; col. 20, line 57 to col. 23, line 7)

An information retrieval device, further comprising:

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- means to detect the presence of an identification device at a particular time and location (col. 14, lines 24-37; col. 21, lines 25-35);

[information retrieval device interacts with the user (probably cellular telephone) at the time the user is on the premises or in proximity of the device]

- means to retrieve the unique identifying information from the identification device (col. 14, lines 24-37; col. 21, lines 25-35; and col. 29, lines 1-10);
- means to communicate the unique identifying information and the time and location of detection to the computer system (col. 14, lines 24-37, col. 21, lines 25-35; col. 29, 1-10; col. 30, lines 3-21);

Information output means, further comprising:

- means to receive the user specific information (col. 39, lines 6-62); and
- means to display specific information (col. 39, lines 6-62);
- whereby information is automatically selected and communicated to an output device based on the location of the identification device at a specific time (col. 39, lines 6-62; col. 54, lines 23-52, col. 56, lines 46-51, col. 47, line 54 to vol. 48, line 9).

Regarding claim 18, A time/location based information delivery system

- A computer system comprising:

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- means to communicate with a computer network (Figure 14 and col. 21, line 25 to col. 22, line 15, Figure 15, col. 22, line 16 to col. 23, line 7);
- storage means for storing information related to individuals (col. 14, lines 12-40);
- means to communicate with information providers ( col. 2, lines 45-65);
- input means to accept time/location information related to an individual, the times/location information having unique identifying information or an individual and information defining the location of the individual at a particular time (col. 25, lines 22-35 and lines 49-60);
- means to select user specific information from the information providers based on the location of the individual at a particular time (col. 46, lines 31-33; col. 47 line 54 to col. 48, line 9; col. 49, lines 50-58; col. 55, lines 31-40); and
- means to communicate the user specific information to information output means (Figs. 1, 2, 4, 13, 14, 36, 49, 71, 79, 93, 96, col. 15, lines 11-34, col. 20, line 57 to col. 23, line 7);

An identification device comprising:

- storage for storing unique identifying information (col. 29, lines 1-10 and 39-56; col. 27, lines 45-54; and col. 30, lines 3-21);
- means to transfer the unique identifying information to an information retrieval device (col. 14, lines 24-40; col. 20, line 57 to col. 23, line 7);

An information retrieval device, further comprising:

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- means to detect the presence of an identification device at a particular time and location (col. 14, lines 24-37; col. 21, lines 25-35);
- means to receive position information from GPS satellites ( col. 23, line 36 to col. 24, line 3);
- means to communicate the unique identifying information and the time and location of detection to the computer system (col. 14, lines 24-37, col. 21, lines 25-35; col. 29, 1-10; col. 30, lines 3-21);
- means to communicate the unique identifying information, the time information, and the GPS satellite position information to the computer system (col. 55, lines 4-21);

Information output means, further comprising:

- means to receive the user specific information (col. 39, lines 6-62); and
- means to display specific information (col. 39, lines 6-62);
- whereby information is automatically selected and communicated to an output device based on the location of the identification device at a specific time (col. 39, lines 6-62; col. 54, lines 23-52, col. 56, lines 46-51, col. 47, line 54 to vol. 48, line 9).

Regarding claim 28, Treyz meets the following limitations:

A method of delivering focused information based on time and location, including the steps of:

- Storing information related to individuals (col. 14, lines 12-40);

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- Acquiring information from information providers (col. 2, lines 45-65);
- Using an identification device to store unique identifying information related to an individual (col. 25, lines 22-35 and lines 49-60);
- Using an information retrieval device to detect an identification device when the identification device is within a predetermined geographic area (col. 25, lines 22-35 and lines 49-60);
- Transferring the unique identifying information to the information retrieval device (col. 14, lines 24-40; col. 20, line 57 to col. 23, line 7);
- Transferring time/location information related to the time and location of the information retrieval device when the information retrieval device is detected (col. 46, lines 31-33; col. 47 line 54 to col. 48, line 9; col. 49, lines 50-58; col. 55, lines 31-40); and
- Selecting user specific information from information providers based on the unique identifying information and the time and location information and transmitting that information to an output device associated with the identification device (col. 39, lines 6-62);
- Whereby information is automatically selected and communicated to an output device based on the location of the identification device at a specific time (col. 39, lines 6-62; col. 54, lines 23-52, col. 56, lines 46-51, col. 47, line 54 to vol. 48, line 9).

Regarding claim 35, Treyz meets the following limitations:



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A method of delivering time and location based information to an individual, including the steps of:

- storing information related to individuals (col. 14, lines 12-40);
- detecting presence of an identifying device, the identifying device having unique identifying information (col. 14, lines 24-37; col. 21, lines 25-35);
- obtaining information from information providers (col. 2, lines 45-65);
- using GPS position information data to determine the location of the identifying device (col. 23, line 36 to col. 24, line 3);
- determining time/location information related to an individual, the times/location information having unique identifying information or an individual and information defining the location of the individual at a particular time (col. 25, lines 22-35 and lines 49-60);
- selecting user specific information from the information providers based on the location of the individual at a particular time, and based on the unique identifying information (col. 46, lines 31-33; col. 47 line 54 to col. 48, line 9; col. 49, lines 50-58; col. 55, lines 31-40); and
- outputting the user specific information to an output device (col. 39, lines 6-62);
- whereby information is automatically selected and communicated to an output device based on the location of the identification device at a specific time (col. 39, lines 6-62; col. 54, lines 23-52, col. 56, lines 46-51, col. 47, line 54 to col. 48, line 9).

Regarding claims 2 and 7, Treyz meets the following limitation:

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- A system, as in claim 1, wherein the unique identifying information includes identification information and demographic/preference information (col. 25, lines 22-35).

Regarding claims 3, 9, and 29, Treyz meets the following limitation:

- A system where the identification device is an RFID device (col. 15, lines 35-48 and col. 25, lines 5-35).

Regarding claim 8, Treyz meets the following limitation:

- A system wherein the information related to individuals is used to select information provided by information providers (col. 55, lines 31-40).

Regarding claims 12, 15, 19, 32, and 36, Treyz meets the following limitation:

- A system where the identification device is a wireless telephone (col. 9, line 56 to col. 10, line 8).

Regarding claims 14, 17, 34, and 38, Treyz meets the following limitation:

- A system wherein the identification device is a computer (col. 9, line 56 to col. 10, line 8).

Regarding claim 20, Treyz meets the following limitations:

- Display means in the wireless telephone (col. 9, line 56 to col. 10, line 8 and col. 26, lines 16-49);
- Means to receive the user specific information (col. 26, lines 40-49); and
- Means to display the user specific information on the display means in the wireless telephone (col. 9, line 56 to col. 10, line 8 and col. 26, lines 16-49).

Regarding claim 40, Treyz meets the following limitation:

- A method including the additional step of using a display in the wireless telephone as the output device (col. 9, lines 56-66).

Regarding claim 48, Treyz meets the following limitation:

- A system wherein the demographic/preference information includes information describing types of information the individual does or does not want to receive; whereby the individual can selectively filter received information (col. 25, lines 22-35).

Regarding claims 49 and 84, Treyz meets the following limitation:

- A system wherein the selected user specific information is filtered by predetermined criteria (col. 3, lines 16-25).

Regarding claim 50, Treyz meets the following limitation:

- A system wherein the predetermined criteria used to filter information from the information provider is based on the location of an individual, and/or the time that the individual is at that location (col. 48, line 62 to col. 49, line 3).

Regarding claims 51 and 54, Treyz meets the following limitation:

- The information from the information provider is further filtered by the individual's personal preferences (col. 3, lines 16-25).

Regarding claims 52, 55, 60, and 63, Treyz meets the following limitation:

- The individual's personal preferences are entered by the individual (col. 25, lines 22-35).

Regarding claims 53, 56, 61, and 64, Treyz meets the following limitation:

- The individual's personal preferences are automatically determined based on the individual's choices, purchases and/or activities (Figure 79 and col. 48, lines 10-61).

Regarding claim 57, Treyz meets the following limitation:

- A method, as in claim 28, including the additional step of using predetermined criteria to filter the selected user specific information (col. 3, lines 16-25).

Regarding claims 58 and 62, Treyz meets the following limitation:

- A method, as in claim 57, including the additional step of using the location of an individual, and/or the time that the individual is at that location as the predetermined criteria used to filter information from the information provider (Fig. 96 and col. 56, lines 46-51).

Regarding claim 59, Treyz meets the following limitation:

- A method, including the additional step of using the individual's personal preferences to further filter the information from the information provider (Figure 79 and col. 48, lines 10-61).

Regarding claims 65 and 66, Treyz meets the following limitation:

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- A means to remotely update the unique identifying information in the identification device (col.27, lines 8-18).

Regarding claims 67 and 68, Treyz meets the following limitation:

- A system wherein the identification device can be an RF device, a smartcard, a near field tag, a bar code, a magnetic strip, an ultrasonic transducer or an infrared device (col. 26 line 66 to col. 27, line 19).

Regarding claim 73, 74, 76, and 77, Treyz meets the following limitation:

- means to include advertisements from the information providers in the user specific information; and means to dynamically select the advertisements based on the time and/or location of the individual (col. 48, line 62 to col. 49, line 3).

Regarding claim 79, 80, 82, and 83, Treyz meets the following limitation:

- means to detect the activities of an individual, the detected activities of the individual further used as the information provided by the individual regarding demographic and personal preferences (Figure 79 and col. 48, lines 10-61).

Regarding claim 85, Treyz meets the following limitation:

- A system wherein the predetermined criteria used to filter information from the information provider is based on the location of an individual, and/or the time that the individual is at that location (col. 48, line 62 to col. 49, line 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 13, 16, 30, 33, 45, and 37, 72 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al., in view of Brady et al.**

Regarding claim 4, 30, Treyz discloses a location based delivery system as presented above for claim 1. Treyz does allow for utilizing RF identification devices. However, Treyz does not discuss details of the RFID devices used.

Brady discloses a radio frequency identification system employing a thin flexible electronic RFID tag having an overall thickness not exceeding approximately 280 microns. Brady provides applications such as being embedded in credit cards. Brady meets the following limitation:

- A system wherein the RFID device is encased in a credit card sized container (col. 16, lines 57-65).

Treyz and Brady are combinable because they share a common endeavor, namely, systems involving RFID devices. At the time of the applicant's invention it would have been

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obvious to modify Treyz to include RFID devices embedded in credit cards or credit card-sized containers since this provides a convenient format to manipulate the device's qualities.

Regarding claim 45, Brady meets the following limitation:

- A system wherein the RFID device is embedded in a credit card (col. 16, lines 57-65).

Regarding claims 13, 16, 33, and 37, Treyz states that the handheld computing device may be any suitable handheld computing device and includes cellular telephones. Treyz does not say directly that a personal digital assistant is used for the applications interacting with the various entities of the system.

However, the examiner takes Official Notice that it is well known to utilize a personal digital assistant as a handheld computing device and that it would have been obvious to modify Treyz to include such a device since it has since has interface port to allow multiple functions.

Regarding claim 72, Treyz meets the following limitation:

- Means to include advertisements from the information providers in the user specific information; and means to dynamically select the advertisements based on the time and/or location of the individual (col. 48, line 62 to col. 49, line 3).

Regarding claim 78, Treyz meets the following limitation:

- Means to detect the activities of an individual, the detected activities of the individual further used as the information provided by the individual regarding demographic and personal preferences (Figure 79 and col. 48, lines 10-61).

**Claims 5, 6, 10, 11, 31, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et, in view of Brady et al., and further in view of Martinez et al.**

Regarding claims 5, 6, 10, and 31, Treyz and Brady combine to show improvements that can be made to the location based delivery system of Treyz utilizing the RFID embedded credit card presented by Brady. This combination is silent regarding utilizing at least two RFID devices where each device operates on a different frequency.

Martinez teaches that it has been a long known technique to utilize at least two RFID devices where each device operates on a different frequency. The teachings of Martinez meet the following limitations:

- A system wherein the identification device further comprises;
  - at least two RFID devices (col. 2, lines 50-56); and
  - each RFID device operates on a different frequency or band (col. 2, lines 50-56).

Treyz, Brady, and Martinez are combinable because they share a common endeavor, namely, applications utilizing RFID devices. At the time of the applicant's invention it would have been obvious to modify Treyz to include the RFID devices embedded in a credit card as done by Brady, and modify the combination to incorporate an identification device having at least two RFID devices with each device operating on different frequencies as taught by the Martinez to allow for system flexibility.

Regarding claims 11, Brady meets the following limitation:

- A system wherein the RFID device is encased in a credit card sized container (col. 16, lines 57-65).



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Regarding claims 46 and 47, Brady meets the following limitation:

- wherein the RFID device is embedded in a credit card (col. 16, lines 57-65).

**Claims 69-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al., in view of Granstram et al.**

Regarding claims 68-70, Treyz discloses a location based delivery system as presented above for claim 1. However, Treyz does not discuss the inclusion of a buddy list as part of the information delivery system.

Granstram discloses a method and arrangement for storing position data relating to first and second activated mobile stations and means to process the position data with respect to the position of the first mobile station and provide the first mobile station with location information of the second mobile station. Granstram meets the following limitations:

- a buddy list identifying related individuals for at least a first individual (col. 9, lines 7-23; col. 9, lines 24-64; col. 10, lines 7-31);
- means to detect when related individuals on the buddy list are in a predetermined location or area (col. 9, lines 7-23; col. 9, lines 24-64; col. 10, lines 7-31); and
- means to notify the first individual and each detected related individual of the presence of each other in the predetermined location (col. 9, lines 7-23; col. 9, lines 24-64; col. 10, lines 7-31).

Treyz and Granstram are combinable because they share a common endeavor, namely, systems capable of locating and passing information to a mobile terminal. At the time of the

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applicant's invention it would have been obvious to modify Trey to include means to detect when individuals on a buddy list are in a predetermined location as done by Granstram in order to give the user the most complete information related to his environment as possible.

***Allowable Subject Matter***

Claims 21-27, 41-44, 75, 81, and 95-98 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 21, 22, 41, and 42, means to detect the movement of an information provider identification device as it moves through a specific geographic location whereas the movement defining a geographic area for which information from the information divider will be distributed was neither found, suggested, nor made evident by the prior art.

Regarding claims 23-25, means within the computer system to direct dial the wireless telephone were neither found, suggested, nor made evident by the prior art.

Regarding claims 26, 27, and 43-45, the combination of detecting an identification device allowing an individual to access information related to that individual by using the identification device to identify the individual to the computer system was neither found, suggested, nor made evident by the prior art.

Regarding claims 95-98, the means to detect when an individual is in proximity to a visual or audio output device, means to determine which program is being presented on the device and means to use information related to the program to select user specific information to be presented to the individual was neither found, suggested, nor made evident by the prior art.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Koch et al. discloses a method of monitoring conditions of vehicle tires containing a monitoring device.

Garber et al. discloses applications for RFID systems with particular reference to library materials.

Kanevsky et al. discloses a system and method for producing an advertisement that is personalized to a particular user for a current transaction and is presented to the user at the point of sale terminal.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 308-6306.

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Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

*Alan T. Gantt*

Alan T. Gantt

August 5, 2003

*N. Maung*  
**NAY MAUNG**  
**PRIMARY EXAMINER**